

STIPULATION

WHEREAS, following several meet-and-confers between Defendant W. Scott Harkonen and the United States, Dr. Harkonen has filed a Motion for New Trial Due to *Brady* Violation, and for Production of Additional *Brady* Evidence (“*Brady* Motion”), related to a recent production of government documents by the United States;

WHEREAS, because of previous trial obligations in another matter and to respond fully to Dr. Harkonen’s assertions in the *Brady* Motion, the United States has requested an extended briefing schedule on the *Brady* Motion;

WHEREAS, the parties have agreed that the Court should hear the *Brady* Motion before the sentencing hearing;

WHEREAS, the Court previously set Thursday, January 20, 2011 as the date for Dr. Harkonen to file his supplemental sentencing brief regarding loss, and continued the sentencing hearing to Wednesday, February 23, 2011 at 2:30 p.m.;

WHEREAS, to accommodate the United States’s request for additional time to respond to the *Brady* Motion, the parties have agreed that the sentencing hearing should be continued for a period of four weeks;

WHEREAS, in support of its arguments in its supplemental Sentencing Memorandum on Fraud Loss, filed with the Court on December 15, 2010, the United States relies upon the Declaration of L.K.M., a purported IPF patient who was prescribed Actimmune;

WHEREAS, in order to evaluate the statements made in that declaration, Dr. Harkonen has requested from the United States the medical records of L.K.M., and the United States has agreed to provide those records;

WHEREAS, the United States has informed Dr. Harkonen that it needs additional time to collect and produce L.K.M.’s medical records and may not be able to produce those records significant in advance of January 20, 2011, when Dr. Harkonen’s supplemental sentencing brief regarding loss is due;

1 WHEREAS, the parties agree that it would be most efficient for Dr. Harkonen to
2 obtain and review L.K.M.'s medical records before the filing of his supplemental sentencing brief
3 regarding loss;

4 THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the
5 undersigned, subject to approval of the Court, that:

6 1. Dr. Harkonen's supplemental sentencing brief regarding loss will be filed with
7 the Court by Thursday, February 10, 2011;

8 2. The parties' additional witness designations for the sentencing hearing will be
9 filed with the Court by Thursday, February 17, 2011;

10 2. The Government's opposition to Dr. Harkonen's *Brady* Motion will be filed
11 with the Court by Tuesday, February 22, 2011;

12 3. Dr. Harkonen's reply in support of his *Brady* Motion will be filed with the
13 Court by Friday, March 4, 2011;

14 4. The hearing on Dr. Harkonen's *Brady* Motion is set for Monday, March 14,
15 2011 at 10:00 a.m.;

16 5. The sentencing hearing is continued and set for Wednesday, March 23, 2011
17 at 2:30 p.m.

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19 Respectfully submitted,

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21 Dated: January 11, 2011

SIDLEY AUSTIN LLP

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23 By: /s/ Mark E. Haddad

24 Mark E. Haddad

25 Attorneys for Defendant
26 W. SCOTT HARKONEN
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28

1 Dated: January 11, 2011

BRIAN J. STRETCH
Acting United States Attorney

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4 By: /s/ Kyle Waldinger
Kyle Waldinger
5 Assistant United States Attorney

6 **SIGNATURE ATTESTATION**

7 I am the ECF User whose identification and password are being used to file the
8 foregoing Stipulation and [Proposed] Scheduling Order. In compliance with General Order 45.X.B.,
9 I hereby attest that the other signatory has concurred in this filing.

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11 Dated: January 11, 2011

SIDLEY AUSTIN LLP

12
13 By: /s/ Mark E. Haddad
Mark E. Haddad

14 Attorneys for Defendant
15 W. SCOTT HARKONEN
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[PROPOSED] ORDER

Upon stipulation of the parties, and good cause appearing, the Court approves the briefing and hearing schedule as set forth in the parties' January 11, 2011 stipulation.

IT IS SO ORDERED.

Dated: January 12, 2011

